

Peterson: Court decision slams door on government committee meetings

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Reviewing statistics, gathering input, weighing strategies, considering alternatives — those are the messy, noisy steps involved in setting government policy.

Often those steps are the work of a subcommittee appointed to advise a council or commission before a final vote.

If an April appeals court decision in a San Juan County case stands, the public will be cut out of those preliminary steps in the governing process. They could take place behind closed doors.

Most subcommittee meetings of city councils, county councils and other elected entities would escape the rules of the state Open Public Meetings Act.

The Washington Supreme Court soon will have an opportunity to review the case.

The matter arose in 2010 while the San Juan County Council was updating its laws that govern where residential and commercial growth can occur and which land is protected. The council assigned three of its six members to work with county staffers to coordinate the effort. For two years, the committee met in private.

In April 2012, the San Juan County prosecutor advised the council to make the meetings public, and it did. The final 20 of about 75 meetings were open to the public.

After the committee finished its work, the full council adopted four updated ordinances.

In October 2012, the Citizens Alliance for Property Rights Legal Fund, a statewide nonprofit, sued the county, contending the ordinances should be nullified because the subcommittee acted illegally when it met in private.

The state open meetings law seems clear: “The Legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the peoples’ business.

“It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.”

The county, in its defense, latched onto a phrase in the law that states a committee must meet openly only when it “acts on behalf of a governing body.”

With no case law on this matter, the county decided mere deliberation didn’t constitute “acting on behalf.” The committee needed to meet in public only if it — rather than the full council — made the final decisions on the matter, the county said. (In common practice, that almost never happens.)

The trial court agreed and dismissed the alliance’s lawsuit. In April, a state appeals court upheld that ruling.

Unless overturned by the state Supreme Court, subcommittees of every elected body in the state could slam their doors to the public. One municipal research agency already is advising cities and counties of the ruling.

Michele Earl-Hubbard, one of the attorneys representing the alliance, requested the state Supreme Court review.

“The big issue is the gatekeeper function in situations like this,” she wrote me. “Proposals are gathered, data is collected, criteria are developed and the like, and along the way a lot of ideas get dropped on the proverbial floor.

“The stuff on the floor never gets presented to the whole council; only the stuff that makes it through. So the three-person committees are making decisions about what to reject and what to pass along.

“Proposals get written and finalized in committee and then get rubber-stamped by council as a whole when the only public meeting occurs.”

So how much does it matter? If these are only advisory committees, and the final votes are still public, what would we be missing?

We’d have missed discussions about how the city of Tacoma should regulate taxis and ride-sharing businesses. Our story last week about it came from a Government Performance and Finance Committee meeting.

We’d have missed the vigorous debate by the 15-member Charter Review Committee appointed by the Tacoma City Council that proposed a change to the form of government.

And this from TNT county government reporter Steve Maynard:

“Pierce County Council members carry out much of their deliberations on issues — whether it’s banning pot, protecting shooting ranges or posting “In God We Trust” — at the committee level. That’s where it usually becomes clear if there are enough “yes” votes to pass a measure or whether it faces revision.

“Without public access to committee meetings, council members could more easily avoid commenting on controversial issues at final votes before the full council.”

The state Supreme Court should take this case and overturn the ruling.

Justices should jump at the chance to reinforce our state law’s strong presumption that citizens get to know what’s going on inside their government.

Don’t allow the door to slam on these important public meetings.

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